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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,067	03/05/2002	Machelle Daniels	Y01-066	7848

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 04/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/092,067

Applicant(s)

DANIELS, MACHELLE

Examiner

Roz Ghafoorian

Art Unit

3763

-- Th MAILING DATE of this communication appears on the cover sheet with th correspondenc address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-2,7-8, 11, 12, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Pub No. US 2002/0165495 to Bird et al.

Bird teaches a tubing cuff for securing a tube with a layer of porous material 13 a layer of layer of foam rubber 16 secured to one side of the layer of porous; a reclosable fastener 15 for securing distal needs of the cuff and a bendable adhesive layer 24 having an adhesive attaché do the porous material.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent Pub No. US 2002/0165495 to Bird et al as applied to claim1 above, and further in view of US Patent No.5342317 to Claywell.

As mentioned above Bird teaches the invention except for the porous layer being hypoallergenic. However, it's very common in the art to use materials that are hypoallergenic to minimize the possible allergic response the patient might have to the product. Claywell teaches a tubing cuff with hypo-allergic layer.

Therefore it would have been obvious to one having ordinarily skill in the art to have used a hypo-allergic layer in for Birds' tubing cuff, because it minimizes the possible allergic response a patient might have to the tubing cuff.

3. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Pub No. US 2002/0165495 to Bird et al as applied to claim1 above, and further in view of US Patent No. US 5879335 to Martinez et al.

As mentioned above Bird teaches the invention except for no woven loop with a durable backing layer. Martinez teaches no woven loop with a durable backing layer.

Therefore it would have been obvious to one having ordinarily skill in the art to have combined these teachings because according to Martinez it an easy to use, inexpensive and easy to disposes of device, and effective to secure a catheter tube to a body part or other object and to prevent unintentional displacement to an accompanying catheter. (Col.1, lines 45-50)

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4. Claims 3 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Pub No. US 2002/0165495 to Bird et al as applied to claim 1 above, and further in view of US Patent No. US 5529062 to Byrd.

As mentioned above Bird teaches the invention except for the layer of porous comprising polypropylene material. Byrd teaches layer of porous comprising polypropylene material.

Therefore it would have been obvious to one having ordinary skill in the art to have combined these teachings because according to Byrd the polypropylene material is soft, breathable, inexpensive and comfortable to the patient. (Col.5, lines 28-30)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
March 31, 2003



**MICHAEL J. HAYES**  
**PRIMARY EXAMINER**